

REMARKS

In the Office Action dated July 2, 2003, claims 1-3, 5-7, 9-16, 18, 20 and 22-27 were rejected under 35 U.S.C. § 102 over U.S. Patent No. 5,754,831 (Berman); claims 8, 17, 19 and 21 were rejected under § 103 over Berman; and claim 4 was rejected under § 103 over Berman in view of the U.S. Patent No. 6,028,846 (Cain).

Amended claim 1 is allowable over Berman. Specifically, claim 1 recites combining first performance parameters of respective components (of a communication system) to derive an overall first performance parameter, combining second performance parameters of respective components to derive an overall second performance parameter, and deriving a quality indication of the communication system based at least on the overall first and second performance parameters. Although Berman discusses associating parameters with network elements, such as speeds and capacities of the network elements, Berman does not disclose that such parameters are combined to derive overall respective parameters from which a quality indication is derived. *See Berman, 6:57-60.* In Berman, the parameters of the network elements are used to *simulate* transmission of messages through a network. Based on this transmission, Berman is able to determine a total transmission time of the message. Berman, 7:37-8:11. The subject described in Berman is thus quite different from what is recited in claim 1.

For the foregoing reasons, it is respectfully submitted that claim 1 is not anticipated by Berman.

Independent claim 20 is allowable over Berman for reasons similar to those for claim 1.

With respect to independent claim 10, Berman does not disclose a controller to calculate a predicted quality of the communications system based on one or more performance parameters, where the predicted quality comprises a value that is representative of a *subjective perceived quality* of communications in the communications system by a user. In Berman, transmission indicia are generated in response to simulating transmission of messages through a network. Such transmission indicia include service time (t) and a utilization accumulator ($R*t$, where R is a message transmission rate). Berman, 7:37-58. Another transmission indicia calculated by

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Berman is the total transmission time of a message. Berman, 8:1-20. However, none of these transmission indicia constitute a value that is representative of a subjective perceived quality of communications in the communications system by a user. The goal of Berman is to use the transmission indicia that are generated based on the simulated transmission of data packets to modify one or more parameters associated with network elements. Berman, 5:38-45. Therefore, Berman does not disclose the calculation of a value that is representative of a subjective perceived quality of communications.

Independent claim 27 is also allowable over Berman, because Berman fails to teach or suggest deriving a quality indication based on packet losses, packet jitters, and packet delays of plural components of a communications system. The Office Action pointed to column 7, lines 64-65 of Berman as teaching assigning a packet jitter parameter. *See* 7/2/03 Office Action at 3 (rejection of claim 5). The cited passage of Berman states the following: "A determination is made as to whether any network elements remain to process message 305" That passage does not disclose assigning a packet jitter parameter. Berman also does not disclose assigning a packet loss parameter. Therefore, independent claim 27 is not anticipated by Berman.

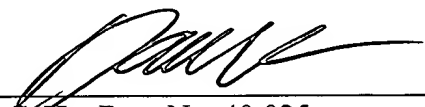
All dependent claims are allowable for at least the same reasons as corresponding independent claims. The newly added dependent claims are also allowable.

In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRT.0049US).

Respectfully submitted,

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Dan C. Hu, Reg. No. 40,025
Trop, Pruner & Hu, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]